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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,883

12/29/2005

Michael Tittmann

502901-338PUS

1374

27799

7590

06/09/2009

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NEW YORK, NY 10176

EXAMINER

CHAUDRY, ATIF H

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,883	<b>Applicant(s)</b> TITTMANN, MICHAEL	
	<b>Examiner</b> ATIF H. CHAUDRY	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/20/2009 has been entered.

### **Status of the claims**

The amendment cancelled claim 4 and amended claim 1. Currently claims 1-3, 5-9 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinz (US Patent 6276342) in view of Coha (US Patent 6553973) further in view of Denneulin et al. (EP 0798457).

3. Regarding claims 1 and 2, Sinz (fig. 1) discloses a fuel supply system for feeding fuel from a fuel tank 1 to an internal combustion engine 7 of a motor vehicle with a plurality of feed units 2, 3 arranged in the fuel tank 1, in which the feed units each have

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a surge chamber 9, 10 for collecting fuel and jet pumps 23, 24 for filling opposite surge chambers. Sinz fails to disclose a suction of a jet pump provided for filling a first surge chamber arranged in a second chamber. Coha (fig 1) teaches a fuel supply system comprising a saddle fuel tank and a plurality of surge chambers 69, 79 with the surge chamber 71 being fed by a suction line 74 connected to a jet pump 68 located inside a second surge chamber 69. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the fuel system disclosed by Sinz with a jet pump suction inside the surge chamber as taught by Coha in order to balance the fuel level in the two chambers. Sinz fails to disclose the jet pumps ceasing operation in response to drop in level of the fuel in the surge chamber. Denneulin et al. (abstract, Fig. 1) teaches a fuel tank having a plurality of feed units 1, 2, a surge chamber 1', 2' in each unit, a jet pump 11 located above a designated minimum height in one surge chamber 2' feeding the other surge chamber 1' such that the jet pump is operated based upon the level of fuel in the surge chamber 2' by means of level detector 12 and controller 13. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the system disclosed by Sinz as modified with a system for operating the jet pump based upon the filling level in the surge chamber as taught by Denneulin et al. in order to prevent the jet pump from running dry.

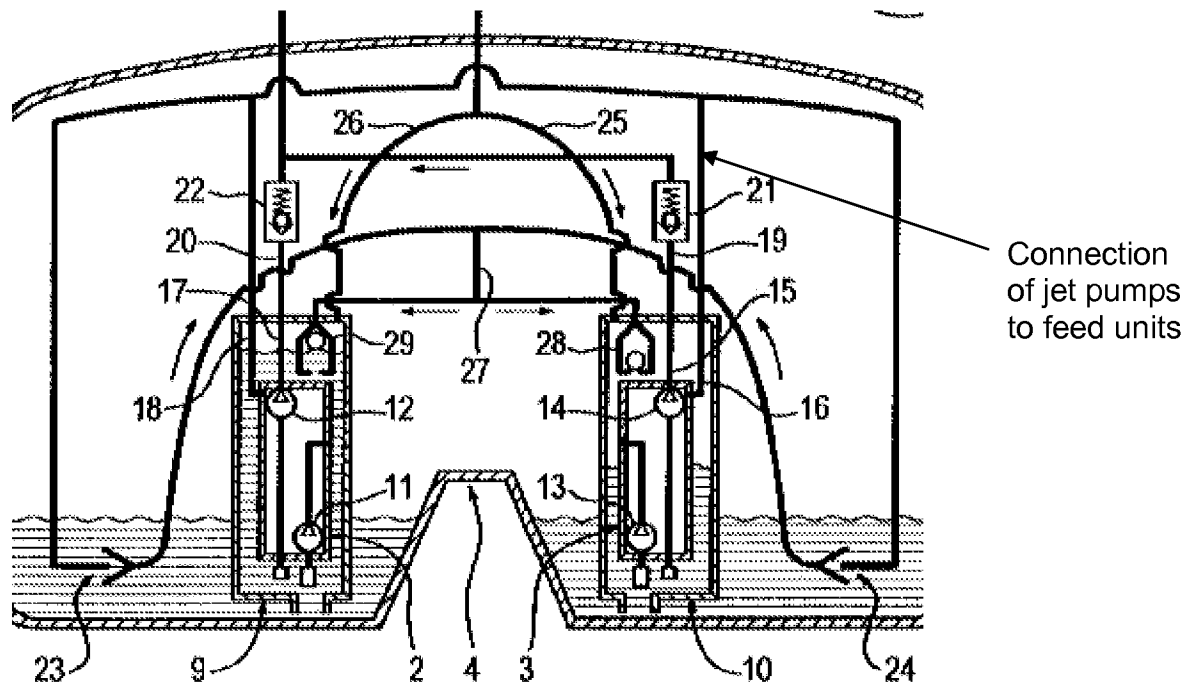
4. Regarding claim 3, Sinz discloses both sides of fuel tank and the surge chambers of identical size and shape; therefore it would be obvious to use the jet pumps having same capacity.

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5. Regarding claim 5, Sinz (fig. 1) discloses the jet pumps 23, 24 having individual feed lines.

6. Regarding claims 6 and 7, Sinz (fig. 2) discloses the jet pumps 23, 24 interconnected with a common collecting line 27 wherein the collecting line 27 for each of the surge chambers 9, 10 in each case has an inflow connected to the suction jet pump 23, 24 and an outflow 28, 29 connected to the surge chamber 9, 10.

7. Regarding claim 9, Sinz (fig. 2) discloses the jet pumps 23, 24, such that working fluid connections of the suction jet pumps are connected to feed units 2, 3 arranged in surge chambers 9, 10.



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8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinz (US Patent 6276342) in view of Coha (US Patent 6553973) and Denneulin et al. (EP 0798457) and further in view of Fischerkeller (US Patent 5797377).

9. Sinz fails to disclose jet pumps connected to a return line returning fuel from an internal combustion engine into the fuel tank. Fischerkeller (fig. 1) teaches a saddle fuel tank having a jet pump 31 connected to a return line 27 returning fuel from an internal combustion engine into the fuel tank. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the fuel system disclosed by Sinz with a jet pump connected to a return line from engine as taught by Fischerkeller in order to utilize the fuel returning from the engine to balance the fuel level in the fuel tank.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Denneulin et al. has been cited to show operation of jet pump in a surge chamber responsive to the filling level in the surge chamber.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ATIF H. CHAUDRY whose telephone number is (571)270-3768. The examiner can normally be reached on Mon-Fri Alternate Friday off 9-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571)272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Atif H Chaudry/  
Examiner, Art Unit 3753

5/28/2009

/Robin O. Evans/  
Supervisory Patent Examiner, Art Unit 3753